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THE GENTLEMAN AND THE GENTLESTATE

By CHARLES FRANKLIN THWING

THE strength of the peace sentiment in America is revealed by the current discussions. The strength is greater than at times one would believe. The seeds sown in the last seventy-five years are bearing fruit. This fruit we wish were more abundant and hardier. On the whole, however, the advocates of peace should have reason to take heart.

The chief result, it is to be hoped, which will eventuate from the present world-struggle is the dominance of the desire for peace as a permanent human condition. Militarism as a force should be cast out. This result may be slow in coming, but it is sure to come. The tides and the stars fight with us in this endeavor. Education is the great force in the process of securing this result.

From the savage to the barbarian, from the barbarian to the semi-civilized man, from such a man to the gentleman, has been the progress of civilization. A similar progress should be made in Commonwealths. The word gentleman has come to be one of the greatest of all words. The word gentlestate should also come to represent one of the noblest of all human conditions. In respect to the gentlestate I venture to repeat what I have said in the last number of the *Hibbert Journal*:

The gentlestate should exist for all of its citizens, and all of its citizens should exist for it. Reciprocity of rights and duties should be the rule. The gentlestate may be the center and the source of power, but if it possesses the giant strength, it is too great to use it like a giant. It seeks to do justice, to love mercy, and it walks humbly. If it has enemies, it treats them as if

they were to become its friends. It has too much good sense to be responsive to insults and too much generosity to bear malice. It is too eager about great things to be annoyed by small irritations, and too much concerned about the good of all to be keen about any lack of respect to itself. It seeks to see the large as large, the small as small, the ephemeral as of the day, and the lasting as permanent, being ever guided by a sense of proportion. It respects the rights of other States with that same honesty and integrity which it merits from others. It makes few or no demands. It has no occasion for self-defense. It is tolerant of others' weaknesses, patient toward their limitations, never finding in either weakness or limitation any excuse for its own aggrandizement. It seeks to enrich as well as to be enriched, to enlarge as well as to be enlarged, and it vastly prefers to be the victim than the agent of any misinterpretation or wrong-doing. Its protective policy is to shield the weak, and its free-trade theory is to give every other State more than it demands. This gentlestate is considerate in thought and feeling, without either hardness or mysticism, cordial without effusiveness, forceful and direct without harshness, firm in conviction without obstinacy, of the highest idealism, ever exercising a good will without giving any impression of weakness. This gentlestate has no armies and no battleships for attacking on either land or sea. Its chief fortresses are the cardinal virtues and the cardinal graces of faith and hope for humanity's future and love for humanity itself.

LAW IN PAN AMERICA

The final resolutions of the Second Pan American Scientific Congress were adopted at its last session held in Washington, January 8, 1916. There are thirty-six resolutions in all. Our readers will be particularly interested in Articles 23 to 28 inclusive, as these are the portions which bear especially upon the question of law in Pan America. These sections of the final act, like other portions, are subject to revision, and were adopted by the Congress with that understanding; but it is believed that the changes or modifications in Sections 23 to 28 will be at most a renumbering or perhaps a slight rearrangement of the paragraphs. They will not be changed in any other respect, as, indeed, they cannot be since they are here given as they were adopted by the Congress.—
THE EDITOR.

Resolved:

XXIII. That in order to increase the facilities for the study of international law the congress hereby recommends that the following steps be taken to improve and enlarge library and reference facilities—

(a) That a carefully prepared bibliography of international law and related subjects be published with the names of publishers and prices, so far as these be obtainable, with special reference to the needs of poorly endowed libraries;

(b) That there be published likewise a carefully pre-

pared index or digest of the various heads and sub-heads in international law, with references to all standard sources of authority upon each head;

(c) That there be published in a cheap and convenient form all documents of State, both foreign and domestic, bearing upon international law, including treaties, documents relating to arbitration, announcements of State policy and diplomatic correspondence, and that the aid of the ministries of foreign affairs be solicited in securing copies of such documents for publication;

(d) That a law reporter of international cases be issued.

2. That, in order further to increase the facilities for the study of international law the congress recommends that steps be taken to extend the study of that subject by increasing the number of schools at which courses in international law are given, by increasing the number of students in attendance upon the courses, and by diffusing a knowledge of its principles in the community at large, and, more particularly—

(a) That as the idea of direct government by the people grows it becomes increasingly essential to the well-being of the world that the leaders of opinion in each

community be familiar with the rights and obligations of States, with respect to one another, as recognized in international law. Hence it has become a patriotic duty, resting upon our educational institutions, to give as thorough and as extensive courses as possible in this subject.

(b) That a course in international law, where possible, should consist of systematic instruction extending over at least a full academic year, divided between international law and diplomacy.

(c) That prominent experts in international law be invited from time to time to lecture upon the subject at the several institutions.

3. That with a view of placing instruction in international law upon a more uniform and scientific basis, the congress makes the following recommendations:

(a) In the teaching of international law emphasis should be laid on the positive nature of the subject and the definiteness of the rules. Whether we regard the teaching of value as a disciplinary subject or from the standpoint of its importance in giving to the student a grasp of the rules that govern the relations between nations, it is important that we have impressed upon his mind the definiteness and positive character of the rules of international law. The teaching of international law should not be made the occasion for a universal peace propaganda. The interest of students and their enthusiasm for the subject can best be aroused by impressing upon them the evolutionary character of the rules of international law. Through such a presentation of the subject the student will not fail to see how the development of positive rules of law governing the relations between States has contributed toward the maintenance of peace.

(b) In order to emphasize the positive character of international law the widest possible use should be made of cases and concrete facts in international experience. The interest of students can best be aroused when they are convinced that they are dealing with the concrete facts of international experience. The marshaling of such facts in such a way as to develop or illustrate general principles lends a dignity to the subject which cannot help but have a stimulating influence. Hence international law should be constantly illustrated from these sources which are recognized as ultimate authority, such as (a) cases both of judicial and arbitral determination; (b) treaties, protocols, acts, and declarations of epoch-making congresses, such as Westphalia (1648), Vienna (1815), Paris (1856), The Hague (1899 and 1907), and London (1909); (c) diplomatic incidents ranking as precedents for action of an international character; (d) the great classics of international law.

(c) In the teaching of international law care should be exercised to distinguish the accepted rules of international law from questions of international policy.

(d) In a general course on international law the experience of no one country should be allowed to assume a consequence out of proportion to the strictly international principles it may illustrate.

4. That the congress recommends that a major in international law in a university course leading to the degree of doctor of philosophy be followed, if possible, by residence at The Hague and attendance upon the Academy of International Law which is to be estab-

lished in that city; that it is the sense of the congress that no better means could possibly be devised for affording a just appreciation of the diverse national views of the system of international law or for developing that "international mind" which is so essential in a teacher of that subject; and that, therefore, as many fellowships as possible should be established in the academy at The Hague.

5. That it is the conviction of this congress that the present development of higher education in the American republics and the place which the American republics have now assumed in the affairs of the society of nations justify and demand that the study of the science and historic applications of international law take its place on a plane of equality with other subjects in the curriculum of colleges and universities, and that professorships or departments devoted to its study should be established in every institution of higher learning.

6. That in recognition of the growing importance of a knowledge of international law to all persons who plan to devote themselves to the administration of justice, and who, through their professional occupation, may contribute largely to the formation of public opinion and who often will be vested with the highest offices in the State and nation, this congress earnestly requests all law schools which now offer no instruction in international law to add to their curriculum a thorough course in that subject.

7. That the congress regards it as desirable, upon the initiative of institutions where instruction in international law is lacking, to take steps toward providing such instruction by visiting professors or lecturers, this instruction to be given in courses, and not in single lectures, upon substantive principles, not upon popular questions of momentary interest, and in a scientific spirit, not in the interest of any propaganda.

8. That the congress recommends the establishment and encouragement in collegiate institutions of specialized courses in preparation for the diplomatic and consular services.

9. That the congress recommends that the study of international law be required in specialized courses in preparation for business.

10. That in the study and teaching of international law in American institutions of learning special stress be laid upon problems affecting the American republics and upon doctrines of American origin.

XXIV. Whereas the American Institute of International Law, founded in Washington, D. C., October 12, 1912, was formally inaugurated under the auspices of the Second Pan American Scientific Congress on December 29, 1915; and

Whereas the said institute, composed of representatives of all the American republics recommended by national societies of international law organized in each of them, has created a bond of intellectual union between the publicists and jurists of the Western Hemisphere which will increase and strengthen the ties of friendship and solidarity now existing between their respective countries and develop a unity and sympathy of purpose in the consideration of common problems of international law and relations: Therefore be it

Resolved, That the Second Pan American Scientific Congress extends to the American Institute of Interna-

tional Law a cordial welcome into the circles of scientific organizations of Pan America, and records a sincere wish for its successful career and the achievement of the highest aims of its important labors.

XXV. Recommends to all educational establishments of America the special study of the constitutions, laws, and institutions of the republics of this continent.

XXVI. Recommends to the various universities of America that a comparative study of judicial institutions be undertaken in order to create special interest therein in the several countries of the continent; also to facilitate the knowledge and solution of American private international-law problems, and even to seek, so far as possible, uniformity of legislation and jurisprudence.

XXVII. That all bar associations of American countries be urged to exchange among themselves law books

and publications affecting the legal profession and the practice of law with a view to broadening and rendering closer their mutual relations.

2. That a similar recommendation be made as regards the exchange of new codes of law and rules of procedure, which may hereafter be established.

XXVIII. (1) That a compilation according to a definite plan be made of the mining laws of the American countries, not only in their original languages, but also in English or Spanish or Portuguese translations, as the case may be, with a view to the reciprocal improvement of the laws of each individual country.

(2) That the several American governments appoint a committee to consider the uniformity of mining statistics, and to make recommendations to their respective governments for the systematizing, simplifying, and standardizing of such statistics.

PATRIOTISM, NATIONALISM AND PEACE

By DAVID STARR JORDAN

THERE are many words in common service which are worn to the bone by careless use. Matthew Arnold once suggested that some of these in which all clearness of meaning has been lost be thrown into "the limbo of spoiled phraseology," giving to language a fresh start.

Among these words of doubtful sense is *patriotism*. Patriotism may represent the culmination of a noble life, quite as easily as in Samuel Johnson's definition "it is the last refuge of a scoundrel." Patriotism represents devotion to the principle of nationalism. Like nationalism, it has two faces. It may be directed inward to the benefit of its own people, or outward to the harm of its neighbors. In the development of national feeling, of pride in national achievement, in devotion to national justice, in the abatement of carelessness, vice, and crime, the spirit of nationalism is in every way to be commended. It exemplifies the duty that lies nearest. In general, our power to act grows less as the square of the distance increases. Hence in most cases helpfulness begins at home. And a national spirit which goes to make the nation better worth living in is a worthy spirit. And its right name is patriotism—devotion to the fatherland. And its test is found in its attitude towards other fatherlands and other people, and the higher patriotism whose end is righteousness is also the broader patriotism whose end is human welfare.

In every lexicon patriotism is defined as "love of country." What is one's country? His State, his province, his nation, the empire to which his province is willingly or unwillingly attached? Who is the patriot in Poland, in Finland, in Armenia, in Alsace-Lorraine? One of the saddest episodes in human history, the war between the States in America, arose from the clashing of two kinds of patriotism—the love of the State with the love of the nation.

It was said, you remember, of John Randolph of Roanoke:

"Too honest or too proud to feign
A love he never cherished,
Beyond Virginia's border line
His patriotism perished."

And must a patriotism devote itself to the supposed interests of the State when the State itself is in the wrong? To oppose one's own nation has been in history the highest form of patriotism. It may be such today. Whenever a nation plunges into a great crime, as into a war of aggression, its course is marked by the heroes and martyrs it has overridden in its downward career. Shall we give the name of patriot to those who give their blood to their "country, right or wrong," or to those who have given their lives to set their country right?

Were they patriots who stood out against the government of the United States when its energies seemed bent on the perpetuation of human slavery? "I will quietly, after my fashion, declare war against the State," said Thoreau. "Under a government which imprisons any unjustly, the true place for a just man is in prison. I know this well, that if one thousand, if one hundred, if one *honest man* in this State of Massachusetts ceasing to remain in this copartnership should be locked up in the county jail therefor, it would be the abolition of slavery in America."

Says Robert Louis Stevenson: "If his example had been followed by a hundred or by thirty of his followers, it would have greatly precipitated the era of freedom and justice. We feel the misdeeds of our country with so little fervor, for we are not witnesses to the sufferings they cause. But when we see them awoken an active horror in our fellow-men, when we see a neighbor prefer to lie in prison than be so much as passively implicated in their perpetration, even the dullest of us will begin to realize them with a quicker pulse."

I shall not tell you the story of John Brown, hung for treason in Virginia half a century and more ago. Guilty, no doubt, caught in the very act, the act of giving his life for his country, that his country might in the future, as it had not been in the past, be a nation of free men!

In our day there are not many who would refuse to John Brown the name of patriot. Even "those who blamed the bloody hand forgave the loving heart." For